**Follow-up to the European Parliament non-legislative resolution on the need for EU action on search and rescue in the Mediterranean**

1. **Resolution tabled pursuant to Rule 132(2)of the European Parliament's Rules of procedure**
2. **Reference number:** 2023/2787 (RSP) / B9-0342/2023 / P9\_TA(2023)0293
3. **Date of adoption of the resolution:** 13 July 2023
4. **Competent Parliamentary Committee:** N/A
5. **Brief analysis/assessment of the resolution and requests made in it:**

The resolution calls for an EU action on search and rescue (SAR) operations in the Mediterranean as it expresses deep concern about the recurring tragic loss of life there, most notably the shipwreck off the coast of Pylos, Greece in June 2023.

The resolution underlines the obligation under international and Union law to provide assistance to persons in distress at sea and calls on Member States and the European Border and Coast Guard Agency (Frontex) to enhance proactive SAR operations and provide sufficient vessels, and equipment dedicated to SAR operations, and calls on the Commission to support such initiatives politically and financially. It also calls on the Commission to assess current Member States’ practices regarding SAR operations and to start work on a new, more sustainable, reliable and permanent approach to SAR practices, replacing existing ad hoc solutions. The resolution also calls for the establishment of a comprehensive EU SAR mission implemented by the Member States’ competent authorities and Frontex.

The resolution calls for enhanced coordination among SAR actors, including non-governmental organisation (NGOs) and shipowners, and urges Frontex to provide more transparent information about its operational activities related to SAR. It also calls on the Commission to step up its coordinating role within the SAR Contact Group. Moreover, it emphasizes the need for independent investigations into shipwrecks by Member States.

Furthermore, the resolution calls for comprehensive information and data sharing on the support provided to border and coast guards in third countries and emphasizes that cooperation should be terminated in case of serious fundamental rights violations by the Libyan coast guard. It also calls on the Member States and the Commission to assess the allegations of serious fundamental rights violations by the Libyan coast guard. It condemns criminal smugglers and traffickers, urging intensified efforts to dismantle their networks.

The resolution calls on the Commission, the Member States and Frontex to ensure that disembarkation takes place only in a place of safety in accordance with relevant international and Union law, and to ensure that such a port is the nearest safe port available for disembarkation.

Finally, it reiterates the importance of creating safe and legal pathways to avoid loss of life and calls for intensifying resettlement measures and humanitarian corridors to the EU.

Overall, the resolution calls for a set of concrete measures to prevent further loss of life and ensure the safe and dignified treatment of migrants attempting to cross the Mediterranean.

1. **Response to requests and overview of action taken, or intended to be taken, by the Commission:**

The Commission welcomes the non-legislative resolution of the European Parliament on the very important issue of saving lives at sea in the Mediterranean. The Commission fully shares the sorrow of the European Parliament at the recurring tragic loss of life in the Mediterranean, including the recent tragedy off the coast of Pylos, Greece.

Saving lives at sea is a moral duty and an obligation under international law. All actors involved in SAR must act swiftly in a lawful and coordinated way to make sure that those in distress at sea are brought rapidly to safety, regardless of their circumstances.

SAR is a national responsibility of Member States, where the applicable legal framework mainly derives from international law. While the Commission is not competent to coordinate a rescue operation or identify a safe place for disembarkation, it has been supporting ways seeking to enhance cooperation between Member States to better coordinate SAR and save lives at sea. The Commission will continue to work towards improving information sharing and coordination among Member States in the context of the European Contact Group on Search and Rescue (*please see more below*) and will keep in contact with Member States with a view, within the remits of its powers and ensuring compliance with the applicable EU acquis, to ensure sustainable solutions and an effective framework for cooperation. Furthermore, the Commission is supporting the implementation of the Common Information Sharing Environment (CISE), a platform which aims at facilitating the information exchange between the different authorities with responsibility in maritime surveillance, including authorities involved in SAR operations **(paragraphs 3 and 8)**.

The subject of the identification of bodies of persons who have tragically lost their lives in the dangerous crossings of the Mediterranean to the EU has been brought to the attention of the Commission on several occasions. The Commission is also aware of different approaches adopted by the Member States in this area. Information was produced and published by the European Migration Network (EMN) on this topic in 2021 (“Separated and missing migrants: Member States approaches to prevent family separation and search mechanisms for missing migrants”)[[1]](#footnote-2). However, the elucidation of the fate and whereabouts of persons missing in the Mediterranean falls within the competence of Member States. The European Union, and hence the Commission, has no competence in this area **(paragraph 1)**.

***Financial and operational support***

Regarding the provision of material, financial and operational support to the Member States to enhance their overall capacity to save lives at sea, the Commission remains committed to providing ample funding opportunities to the Member States in this regard and ensuring that border management, including in relation to entry into EU territory of private vessels carrying out rescue operations, is conducted in compliance with the applicable EU law. Funding mechanisms such as the Borders Management and Visa Instrument (BMVI) for example also clearly refer to the objective of enhancing SAR capabilities and seek to provide the Member States with opportunities to acquire equipment and systems that can and should also be used for SAR operations in situations arising during border surveillance operations at sea. It should however be noted that SAR activities per se cannot be funded under the BMVI **(paragraph 3)**.

Border management is a shared responsibility of the relevant authorities of the Member States and Frontex. Within that context, the Agency plays an important support role to Member States in all aspects of border management, including SAR. While Frontex has no mandate to declare, launch, or coordinate SAR operations, it has an obligation to provide technical and operational assistance to SAR operations which may arise during border surveillance operations at sea. The responsibility to declare and coordinate SAR activities lies exclusively with the national Rescue Coordination Centres. Nevertheless in the context of its operations, Frontex provides technical and operational assistance to any ongoing SAR operation, provided that its assets are available and in a position to act. This obligation is overarching and applies to all Agency assets and capabilities. Moreover, the Agency’s provision of surveillance services, including multipurpose aerial surveillance in the context of the Eurosur Fusion Services, can greatly enhance the Member States’ ability to recognise situations of potential distress at sea, launching SAR operations proactively and increasing the number of lives saved at sea. In the context of the SAR Contact Group, chaired by the Commission, the Agency has provided its expert contribution, particularly in the context of enhancing situational awareness to facilitate better and more effective rescue operations at sea. The Commission remains committed to ensuring that Frontex can provide the ample support within its mandate to the Member States in saving lives at sea.

According to the Frontex Regulation, the Agency is accountable to the European Parliament and to the Council. In line with this obligation, the Agency has consistently made itself available to brief the Members of Parliament upon their requests, including on matters regarding Search and Rescue **(paragraph 4)**.

Efforts to save lives also include developing legal pathways and information campaigns along migratory routes to make potential migrants aware of the dangers and risks of irregular migration. The Commission is promoting legal pathways and currently supports such campaigns in a number of partner countries, including Morocco, Tunisia, Côte d’Ivoire, Ghana, Niger, Nigeria, Senegal, Mauritania and The Gambia.

In Mauritania, the issue of security and awareness of irregular migration has been addressed through two projects. Their general objective is to improve the security governance, in particular maritime security and ensure accountability in the context of the security-resilience-development nexus in Mauritania. This is done through the strengthening of cross-cutting institutional and operational capacities of the relevant services. Moreover, the EU contributes to improve the protection of migrants’ rights and the governance of migration in Mauritania through the strengthening of civil society and institutional actors relevant for the protection of migrants and human rights, and the provision of direct assistance and protection to vulnerable migrants.

Moreover, the Commission is committed to fighting criminal networks active in human trafficking and migrant smuggling. The New Pact on Migration and Asylum puts preventing and combating migrant smuggling at the centre of its approach to migration. This is also envisaged in the 2021-2025 renewed EU action plan against migrant smuggling[[2]](#footnote-3). In 2022, the EU launched anti-smuggling operational partnerships with Morocco, Niger and the Western Balkans. In 2023, the Commission agreed on launching an anti-smuggling operational partnership with Tunisia. The anti-smuggling operational partnerships aim at strengthening legal, policy, operational and strategic frameworks in partner countries and to increase the impact, ownership and sustainability of efforts to tackle migrant smuggling as announced by President von der Leyen in the 2023 State of the Union address, and building on these efforts, the Commission will present a legislative package to combat smuggling and organise anInternational Conferenceon fighting people smuggling this autumn. Additional funding in the area of countering migrant smuggling and trafficking in human beings will be provided for a regional programme as part of a new Action on migration for North Africa. In Western Africa, support is provided notably to Côte d’Ivoire, Ghana, Mali, Mauritania, Nigeria, Senegal and The Gambia, through the European Union Emergency Trust Fund for Africa and/ or the NDICI (Neighbourhood, Development and International Cooperation instrument)-Global Europe. EU funding to third countries is the result of an assessment of the overall relations with a partner country, taking into account both the EU’s and the partner countries’ interests, needs and the common objective to have a comprehensive migration partnership with countries, based on the full respect of fundamental rights of migrants. Funding to third countries is an important element in the overall engagement with partner countries **(paragraph 18)**.

***European Contact Group on Search and Rescue***

The Commission relaunched the Search and Rescue Contact Group in January 2023 and has been encouraging Member States to make progress, working towards an operational framework of SAR cooperation. As a follow-up, several specific work strands were launched, namely looking at improving situational awareness, establishing a better cooperation framework, increasing knowledge on existing laws and policies for private vessels carrying out SAR in the Mediterranean as their predominant activity, and the possibility for EU Member States to consider an initiative leading to future joint work within the International Maritime Organization. As a first result of discussions carried out at technical level at the latest (EU) SAR Contact Group meeting on 16 June 2023, a pilot initiative was agreed to be launched to improve situational awareness at sea, which will be opened to Contact Group members to participate in on a voluntary basis. At the same time the SAR Contact Group members are considering the possibilities of using CISE for facilitating the exchange of data in the framework of SAR operations **(paragraph 6)**.

Furthermore, at the meeting of Group on 16 June 2023, Member States agreed on a voluntary basis to continue exchanging information including on the main parameters of various SAR scenarios in different areas of the Mediterranean, and the interplay between the different and complementary roles that the flag and coastal states play **(paragraph 17)**.

As set out in the Group’s terms of reference, the Group’s members are authorities of Member States and of Schengen Associated countries. So far, the large majority of the members have considered it important to focus first on discussing matters among themselves in the framework of this Group and to strengthen their common understanding of the challenging issues at stake. Hence, stakeholders such as civil society organisations engaged in SAR activities and shipowners associations have not been invited to the meetings so far. However, this has not prevented the Commission or individual Member States from maintaining regular dialogue and cooperation with private or public actors involved in SAR activities at sea. The Commission sees full value in ensuring the appropriate outreach to all relevant actors in this field, including NGOs, with most of whom it has been in contact on a regular basis.

The Commission stands ready to keep the European Parliament informed of relevant developments linked to SAR, including in the framework of our regular exchanges **(paragraph 6)**.

***Disembarkations***

The coordination of SAR operations is national competence under international law, and the EU has no legal competence to regulate SAR situations or to indicate safe places for disembarkation. However, the Commission has been continuously calling on all Member States and all actors involved in SAR to act in a lawful, swift and coordinated way to make sure that those in distress at sea are brought to safety as rapidly as possible.

In line with its obligations, Frontex ensures that all its activities, operations, and services concerning SAR comply fully with EU and international law, including the respect for fundamental rights as enshrined in the Charter, and the principle of non-refoulement. With regard to operations at sea, Frontex moreover abides by Regulation (EU) N° 656/2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union[[3]](#footnote-4). Regulation (EU) N° 656/2014 requires the Member States and the Agency to observe their obligations under international and EU law, including all relevant international conventions regarding SAR. This includes the obligation to ensure that “no person shall be disembarked in, forced to enter, conducted to or otherwise handed over to the authorities of a country where, inter alia, there is a serious risk that he or she would be subjected to the death penalty, torture, persecution or other inhuman or degrading treatment or punishment, or where his or her life or freedom would be threatened on account of his or her race, religion, nationality, sexual orientation, membership of a particular social group or political opinion, or from which there is a serious risk of an expulsion, removal or extradition to another country in contravention of the principle of non-refoulement[[4]](#footnote-5)”.

This means that when planning a sea operation and considering the possibility of any disembarkations in a third country, the host Member State and the Agency must conduct a thorough assessment of the general situation in that third country, in accordance with Article4(2) of Regulation (EU) N° 656/2014. That assessment should be part of the Operational Plan. Other safeguards include ensuring that the rescued persons are informed clearly of the designated place of disembarkation before being disembarked, and provided the opportunity to explain why such a decision may, in their individual case, violate the principle of non-refoulement.

In practice, as illustrated by the Agency’s “Annual report(s) on the implementation of Regulation (EU) No 656/2014 […]”, disembarkation in a third country is not considered as an option within Joint Operations, as the host Member State authorises disembarkations on its territory. Even where the possibility of disembarkation in third countries is considered as viable, as in the case of Türkiye, it is noted that in both 2021 and 2022 all persons rescued at sea in the context of Joint Operations between Frontex and Greece were disembarked in Greece. These reports are compiled annually by the Agency and made available on its Public Registry of Documents[[5]](#footnote-6) **(paragraph 11)**.

***Cooperation with and funding to third countries***

Migration – in all its aspects - is a key topic in EU relations with the Southern Neighbourhood and the subject of a regular and comprehensive dialogue with all the authorities of these countries. The EU remains committed to cooperating with all its partners in setting up a comprehensive and rights-based migration governance and management system. This commitment is also valid for SAR related activities and operations, in line with the above-mentioned EU position on this matter.

When it comes to Libya, the current complex political situation adds considerable challenges. In light of the increasing number of casualties in the Mediterranean, the Commission is committed to continue strengthening the capacity of the coastal authorities to carry out effective search and rescue operations in line with international standards, as well as to investigate and prosecute migrant smugglers and traffickers, including through the provision of equipment and training, in close cooperation with EU Member States. To this end, two refitted and three new SAR vessels have been recently handed over to the Libyan Coast Guard (last hand overs on 2 August), following the signature of a Memorandum of Understanding between Italy and Libya, which includes safeguards on the respect of human rights and monitoring of the use of the vessels. The delivery of vessels forms part of the Support to Integrated Border and Migration Management in Libya — SIBMMIL’ programme, which is implemented by the Italian Ministry of Interior (since July 2017, overall budget of EUR 59 million, funded under the EUTF North Africa window). EU assistance to relevant appropriate Libyan authorities is guided by a flexible approach, so that can be adapted depending on developments on the ground, while always putting the safety and protection of migrants first. All EU programmes in Libya are implemented in line with the basic principle of “*do no harm*” and through a conflict-sensitive approach.

Due to the situation, the respect of human rights of migrants and refugees is at the core of the EU funding in Libya. The main focus remains in the areas of protection and assistance to the most vulnerable and community stabilisation with a view of improving the living conditions of migrants, refugees and Internally displaced persons (IDPs). It is worth recalling that, since 2015 Libya has been the main beneficiary of the North Africa window and the largest beneficiary country of the EU Emergency Trust Fund for Africa, with an envelope of more than EUR 460 million.

In the same vein, through the establishment of the Tripartite Task Force (TTF) in 2017, the EU – along with the African Union and the United Nations – has played a positive role in advancing the humanitarian agenda in migration in Libya. The TTF brought tangible results, including facilitating the assisted voluntary return of over 60000 stranded migrants to their countries of origin and contributing to the evacuation - by the UN Refugee Agency (UNHCR) - of more than 5 500 refugees. In addition, more than 3 000 refugees were directly resettled from Libya to third countries, while more than 1 000 departed through humanitarian evacuations/corridors to Italy.

On 26 June 2023, the Commission adopted the **Annual Action Plan (AAP) 2023 Multi-Country Migration Programme for the Southern Neighbourhood** worth EUR 318 million. This comprehensive migration regional support package for North Africa addresses border management (including SAR), anti-smuggling and anti-trafficking in human beings, protection, and assisted voluntary returns and reintegration.

Under this comprehensive package, EUR 105 million are tentatively earmarked for **Tunisia**, covering migration priorities to be jointly identified with the Tunisian authorities according to the implementation of the pillar 5 of the Memorandum of Understanding signed on 16 July, in particular: the strengthening of border management capacities, including the coastal surveillance system, anti-smuggling and assisted voluntary returns to countries of origin. The exact type of support and final figures are yet to be decided, on the basis of subsequent discussions with Tunisian authorities according to their needs. Furthermore, an ASOP has been launched in 2023, which includes, *inter alia*, enhanced cooperation with EU agencies (CEPOL, Europol, Eurojust and Frontex).

In **Egypt**, the Action Plan will include significant support to border management, and in particular to SAR on land and sea, topping-up the EUR 23 million support adopted in 2022 in the same area. Furthermore, part of the envelope will be allocated to support investigations and prosecutions against criminal networks engaging in migrant smuggling and in trafficking in human beings.

More actions to support border management and anti-migrant smuggling and anti-trafficking in human beings in Tunisia and Morocco are envisaged under the Action Plan 2023 **(paragraph 10)**.

There is wide ranging cooperation with third countries in West and Eastern Africa in particular with Burkina Faso, Central African Republic, Chad, Côte d’Ivoire, Democratic Republic of Congo, Ethiopia, The Gambia, Ghana, Guinea, Kenya, Mali, Mauritania, Niger, Nigeria, Senegal, Somalia, South Sudan, Sudan and Uganda. This includes various actions aimed at supporting migration governance and management notably data collection and research; addressing irregular migration including through combatting smuggling of migrants, strengthening integrated border management and supporting voluntary returns and reintegration of migrants including those stranded in transit countries; responding to forced displacement by supporting internally displaced persons an host communities; addressing root causes; and promoting legal migration and intra-African mobility; facilitating dialogue notably at continental and regional level, and financing data gathering and research to inform better policy and programme formulation. This cooperation has been funded through the Emergency Trust Fund for Africa and is currently also through the NDICI-Global Europe.

Many national Multiannual Indicative Programmes target migration as a specific sector of intervention leading to dedicated actions and in some cases migration-related reforms are supported through budget support. This cooperation at national level is complemented by regional or multi-country actions funded under the regional Multiannual Indicative Programme for Sub-Saharan Africa which allocates EUR 1.6 billion for migration and forced displacement over the period 2021-2027 of which EUR 500 million for migration and 600 million for a flexible mechanism enabling enhanced support with third countries with which a fruitful cooperation is taking place. The support provided to Sub-Sahara African countries takes place in the framework of two Team Europe Initiatives for a comprehensive approach to migration along the Western Mediterranean/Atlantic route and Central Mediterranean route.

1. <https://home-affairs.ec.europa.eu/system/files/2021-10/00_eu_seperated_missing_inform_en.pdf> [↑](#footnote-ref-2)
2. COM/2021/591 final [↑](#footnote-ref-3)
3. OJ L 189 of 27.6.2014, p. 93 [↑](#footnote-ref-4)
4. Article 4 (1) of Regulation (EU) N° 656/2014 [↑](#footnote-ref-5)
5. <https://prd.frontex.europa.eu/> [↑](#footnote-ref-6)